

JUL 31 2006

FEDERAL ELECTION COMMISSION
SECRETARIAT

2006 JUL 31 P 12: 21

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

MUR 5655

In the Matter of

Richard G. Renzi)
Rick Renzi for Congress and Nancy)
H. Watkins, in her official capacity)
as treasurer¹)
Patriot Insurance Agency, Inc., f/k/a)
Renzi & Co., Inc.)
Fountain Realty & Development, Inc., a/k/a)
Fountain Hills Realty & Development,)
Inc., f/k/a Renzi Investments, Inc.)

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

Take no further action with respect to Richard

G. Renzi ("Renzi"), Patriot Insurance Agency, Inc., f/k/a Renzi & Co., Inc. ("Renzi & Co."), and
Fountain Realty & Development, Inc., a/k/a Fountain Hills Realty & Development, Inc., a/k/a
Renzi Investments, Inc. ("Renzi Investments"), and close the file as to them.

II. INTRODUCTION

This matter stems from a Commission audit of the Committee which concluded, on the
basis of the information then available, that \$369,090 in loans made by Representative Renzi to

¹ According to an amended Statement of Organization filed by the Committee since the Commission found reason to believe the Committee violated the Federal Election Campaign Act of 1971, as amended, Nancy H. Watkins has replaced Christopher J. Ward as treasurer.

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his campaign had apparently come from two Subchapter S corporations. The Commission found reason to believe that Respondents violated 2 U.S.C. § 441b(a) in connection with the loans, and authorized an investigation. The Commission also found reason to believe that the Committee violated 2 U.S.C. §§ 434(b)(1), (2), and (4), 434(b)(2)(F) and 11 C.F.R. § 102.17(c)(8)(i)(B), based on the audit findings.

During the ensuing investigation, the Respondents provided additional documentation and amended their tax returns. As a result, it now appears that the sources of the loans in question were Renzi's personal funds. Therefore, we recommend that the Commission take no further action with respect to the Respondents concerning these loans.

III. BACKGROUND

As set forth in the Final Audit Report, the Audit Division reviewed the sources of funds for \$585,090 in loans made by Renzi to his Committee to determine whether they derived from corporate sources. Attachment 1 to FGCR at 7 of 69. After reviewing the available information, which included some, but not all, of the materials they had requested, the auditors concluded that \$369,090 of the \$585,090 in loans appeared to have come from two Subchapter S corporations, rather than from loan repayments or distributions of funds from the corporations to Renzi, as Respondents maintained. *Id.* at 7-11 and 17 of 69.

After the Commission approved the Final Audit Report, the Audit Division referred three findings to this Office: the first involved the apparent corporate source of the loans Renzi made

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1 to his Committee; the second and third involved unrelated misstatements of financial activity and
2 misreporting of transfers from an authorized committee. Subsequently, the Commission found
3 reason to believe that the Respondents each violated 2 U.S.C. § 441b(a) and the Committee had
4 misstated financial activity and misreported transfers.

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6 **IV. INVESTIGATION**

7 During the investigation, we sought and Respondents provided more extensive
8 information than during the audit, including a description of all transactions during the audit
9 period between Renzi and the respondent corporations.² Moreover, Respondents retained a new
10 certified public accountant to review and reconstruct the information underlying the relevant
11 corporate and individual tax returns and, if appropriate, to amend the returns.

12 The accountant, who characterized the original tax returns as "abysmal," "confus[ed],"
13 and "complex[]" in an e-mail to Respondents (provided by their counsel to us), spent several
14 months reconstructing the activity between Renzi and the Subchapter S corporations during the
15 relevant time periods. This process resulted in significant amendments to Representative and
16 Mrs. Renzi's personal tax returns and the tax returns of the corporate respondents. In particular,
17 the corporate Schedule K-1s for both Renzi & Co. and Renzi Investments now reflect loan
18 repayments for "Loans from Shareholders" (Renzi) of \$400,500 and \$197,944 respectively,
19 whereas the original Schedule K-1s had listed no loan repayments at all. According to the Audit
20 Division, the underlying transactional data and the amended tax returns show that the source of

² During the audit, Respondents had indicated that Renzi owned 90% of Renzi & Co. and a 50% controlling interest in Renzi Investments. During our investigation, Respondents produced documentation showing that Renzi owned 100% of the corporations at the time the funds in issue were transferred.

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1 the \$369,090 that Renzi loaned to his campaign came from loan repayments to him, and hence
2 were his personal funds, not prohibited corporate contributions.

3 The amended tax returns have been filed with federal and state tax authorities. With the
4 filings, Representative and Mrs. Renzi paid an additional \$285,421 in federal taxes and \$38,409
5 in state taxes. Moreover, Renzi submitted a sworn affidavit attesting to the transactional facts
6 underlying the loans to the Committee and their sources, as well as to the information in the
7 original and amended corporate tax returns. Mrs. Renzi, in her capacity as the current president
8 of Renzi & Co., also submitted an affidavit affirming the relevant information in her husband's
9 affidavit.³

10 Based on the above, we recommend that the Commission take no further action with
11 respect to Representative Richard G. Renzi, Patriot Insurance Agency, Inc., f/k/a Renzi & Co.,
12 Inc., and Fountain Realty & Development, Inc., a/k/a Fountain Hills Realty & Development,
13 Inc., a/k/a Renzi Investments, Inc. and close the file as to them.

14 **V. REPORTING VIOLATIONS**

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16 Based on information uncovered during the audit, the Commission also found reason to
17 believe that the Committee had committed a number of reporting violations. First, on its 2002
18 October Quarterly, Pre-General, Post-General, and Year-End Reports, the Committee
19 understated receipts by a net total of \$37,539 and understated disbursements by a net total of
20 \$101,105, which resulted in a corresponding overstatement of net cash on hand of \$63,566, in

³ Both Renzi and his wife agreed that, if they decided to further amend these corporate tax returns, they would inform the Commission and waive the applicable state of limitations for six months so that the Commission could determine whether further action was appropriate.

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violation of 2 U.S.C. §§ 434(b)(1), (2), and (4). *See* FGCR at 2; *see also* Audit Finding 2:

Misstatement of Financial Activity, Attachment 1 to FGCR at 17-18 of 69.

Second, the Committee improperly disclosed three transfers totaling \$134,495 from The Leadership Committee, an affiliated committee that engaged in joint fundraising with Renzi's Committee, by itemizing \$130,495 of the transfers as ordinary contributions on Schedule A, instead of providing memo entries on Schedule A disclosing original contributors who gave in excess of \$200, or political committees that contributed any amount. *See* 11 C.F.R.

§ 102.17(c)(8)(i)(B). The Committee failed to disclose the remaining \$4,000 at all, in violation of 2 U.S.C. § 434(b)(2)(F).⁴ *See* FGCR at 3,5; *see also* Audit Finding 4: *Disclosure of Transfers from Authorized Committee*, Attachment 1 at 19-20 of 69. The Committee amended its reports to correct these reporting errors following the audit.

VI. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

⁴ In addition, the Committee reported the three transfers on line 11 of the respective Detailed Summary Pages of its Pre-General, Post-General, and Year End Reports, along with other contributions, instead of on line 12, the line designated for such transfers, which also violated 2 U.S.C. § 434(b)(2)(F).

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VII. RECOMMENDATIONS

1. Take no further action with respect to Richard G. Renzi; Patriot Insurance Agency, Inc., f/k/a Renzi & Co., Inc.; Fountain Realty & Development, Inc., a/k/a Fountain Hills Realty & Development, Inc., f/k/a Renzi Investments, Inc. and close the file as to them.
- 2.
3. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

7/31/06
Date

BY:

Susan L. Lebeaux
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Attorney

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